

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA

v.

RODNEY EDWARD STEWART,

Defendant.

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Case No. 1:06CR00046

OPINION

By: James P. Jones
United States District Judge

Rodney Edward Stewart, Pro Se Defendant.

The defendant, Rodney Edward Stewart, proceeding pro se, filed related pleadings styled as a “MOTION FOR RECONSIDERATION OR IN THE ALTERNATIVE, MOTION PURSUANT TO FED. R. CIV. P. 62.1 INDICATIVE RULING.” This motion asserts that the court erred in ruling on Stewart’s Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C.A. § 2255 (West Supp. 2013) and subsequent motions for reconsideration that he has filed. After reviewing Stewart’s current submission and the record, I find that Stewart is merely reraising arguments already presented in prior submissions. Therefore, I deny his motion on the grounds he asserts, construe his submission as a Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C.A. § 2255 (West Supp. 2012), and dismiss it as successive.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See 28 U.S.C.A. § 2255(h). The defendant previously filed a § 2255 motion concerning this same conviction and sentence. *United States v. Stewart*, No. 1:06CR00046, 1:10CV80213, 2011 WL 4595243 (W.D. Va. Oct. 3, 2011), *certificate of appealability denied and appeal dismissed*, No. 11-7488, 2012 WL 886902 (4th Cir. Mar. 16, 2012) (unpublished). Because the defendant offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, I must dismiss his current action without prejudice

A separate Final Order will be entered herewith.

DATED: May 31, 2013

/s/ James P. Jones
United States District Judge